

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4344 of 1985

with

SPECIAL CIVIL APPLICATION No 4012 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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G S R T C

Versus

BHAGWANBYHAI N BHANDARI

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Appearance:

(In both Special Civil Applications)

MR KN RAVAL for GSRTC

MR HK RATHOD for Workman

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/12/97

ORAL JUDGEMENT

#. Both these Special Civil Applications have arisen

from the same award of the Labour Court, Navsari, dated 14.12.84, passed in Reference (L.C.N.) 464 of 1983, under which the Gujarat State Road Transport Corporation (hereinafter referred to as 'Corporation') was directed to take the workman back in service in the Workshop or any other department where there is no daily dealing with money, without backwages. The Corporation challenges the award to the extent where the reinstatement of workman has been ordered and the workman challenges that part of the award where he has been denied backwages.

#. This Court has not granted any interim relief in the Special Civil Application filed against the said award by the Corporation. The parties are not at variance that the workman was reinstated, in pursuance to the award of the Labour Court, in service and on attaining the age of superannuation, he has already been retired from the services from 31st July 1992.

#. The learned counsel for the Corporation contended that looking to the charges framed against the workman, the Labour Court has committed serious illegality in ordering for his reinstatement. It has next been contended that the past record of the workman was also full of blemishes. There were 44 defaults earlier out of which some were for the offence of recovering fare from the passengers without issuing the tickets.

#. On the other hand, the learned counsel for the workman contended that the Labour Court has taken a fair and reasonable view in the matter and as such, this Court sitting under Article 227 of the Constitution of India may not interfere with the award. It has next been contended that the Labour Court has committed serious illegality in not awarding the backwages to the workman.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

#. There were charges against the workman-Conductor that he has not issued tickets to 18 passengers. The charges were serious and looking to the further fact that there were 44 past incidents of misconduct against the workman, the lenient view taken by the Labour Court may not be correct, but in view of the fact that the workman has been reinstated back in service and he has retired from the services of the Corporation from 31st July 1992 and further that the workman has been denied the backwages and the Corporation has been directed to post him at a place where there is no daily dealing with money, I do not consider it to be a fit case where this Court should

interfere with the award passed by the Labour Court.

#. So far as the challenge of the workman to the award where backwages have been denied is concerned, it is wholly misconceived. It is not the case where the Labour Court has committed any illegality in denying the backwages. In fact, the backwages have been denied to the workman by way of punishment. So the punishment of dismissal of the workman has been substituted by punishment of withholding the backwages. Looking to the seriousness of the charges as well as the fact that these charges were found proved and further that the past conduct of the petitioner was also blameworthy, in fact, a lenient view has been taken by the Labour Court.

#. In the result, both these Special Civil Applications fail and the same are dismissed. Rule discharged. No order as to costs.

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(sunil)